

Attorney for Plaintiff
GLORIA PLASCENCIA-DE HARO

I.

The Court's August 1, 2016 Order denied the Government's motion for summary judgment. See Dkt. No. 48.

Plaintiff Gloria Plascencia-De Haro brought this action against Defendants asserting (1) a claim for declaratory and injunctive relief against the DHS Defendants and Attorney General for attempting to remove her without a valid removal order and (2) an Administrative Procedure Act claim against the USCIS Defendants to seek judicial review of the denial of her application to adjust status as the parent of a U.S. citizen.

The Court dismissed with prejudice the first cause of action for lack of jurisdiction under the REAL ID Act on March 11, 2016.

On August 1, 2016, the Court denied the USCIS Defendant's Motion for Summary Judgment on the APA claim, construed Plaintiff's opposition as a cross-motion for summary judgment seeking remand pursuant to FRCP 56(f)(1), and ordered the adjustment of status application remanded to USCIS.

The Court having considered all arguments and evidence of the parties, judgment is hereby entered as follows:

II.

This Court has subject matter jurisdiction with regard to the second cause of action under 28 U.S.C. § 1331 (federal question) and may grant relief pursuant to 5 U.S.C. § 701 (APA)

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3 **III.**

4 The September 19, 2014, USCIS decision administratively
5 closing Plaintiff's application is construed as a denial of such
6 application. The Court finds the decision violated the
7 Administrative Procedure Act.

8 The decision contains no findings relating to Plaintiff's
9 evidence or analysis thereof, which was probative of whether she
10 had timely departed in compliance with an order of voluntary
11 departure and whether she could have been inspected and admitted
12 by an immigration officer upon her alleged return to the United
13 States. Accordingly, the Court finds the decision is arbitrary,
14 capricious, and not in accordance with law within the meaning of
15 the APA.

16 The September 19, 2014, USCIS decision is vacated and the
17 application is remanded to USCIS for further proceedings
18 consistent with this judgment and entry of a new decision.

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3 IV.

4 The Court makes no order regarding costs of suit.
5 Plaintiff may file a motion for fees and costs pursuant to the
6 Equal Access to Justice Act.

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8 **IT IS SO ORDERED, ADJUDGED, AND DECREED.**

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10 DATED: August 16, 2016

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13 HAYWOOD S. GILLIAM, JR.
14 United States District Judge
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